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Certificate of Mailing: Date of Deposit: May 12, 2009

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Michael E. Connors

Printed name of person mailing correspondence

  
Signature of person mailing correspondence

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Heinz Peter Vollmers et al.	Confirmation No.:	5150
Serial No.:	09/469,606	Art Unit:	1643
Filed:	December 22, 1999	Examiner:	Alana M. Harris
Customer No.:	21559		
Title:	SUBSTANCE FOR OBTAINING HIGHLY EFFECTIVE TUMOR <u>MEDICATIONS AS WELL AS A PROCESS</u>		

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

PETITION TO WITHDRAW HOLDING OF ABANDONMENT

Under 37 C.F.R. § 1.181, Applicants hereby petition to have the Notice of Abandonment that was sent electronically in connection with the above-captioned case on May 5, 2009 be withdrawn. A copy of the Notice is enclosed. According to the Notice, the application was abandoned under 37 C.F.R. § 1.135 for Applicants' failure to reply to an Office letter (i.e., final Office Action) that was mailed on October 29, 2008. As explained below, a Request for Continued Examination was timely filed on April 29, 2009 with a Reply to the October 29, 2008 Office Action and a three-month Petition for Extension of Time.

The Request for Continued Examination, Reply to Final Office Action, and Petition for Extension of Time filed on April 29, 2009 were received by the U.S.P.T.O.

and uploaded onto the PAIR Image File Wrapper (see printout of the PAIR Image File Wrapper (Exhibit 1)). As evidenced in Exhibit 2, the April 29, 2009 Request for Continued Examination, Reply to Final Office Action, and Petition for Extension of Time downloaded from the PAIR Image File Wrapper bear the U.S.P.T.O. stamp indicating receipt by the U.S.P.T.O. on May 4, 2009. Applicants submit that the copies of the April 29, 2009 Request for Continued Examination, Reply to Final Office Action, and Petition for Extension of Time downloaded from the PAIR Image File Wrapper show that the Reply to the October 29, 2008 Office Action was timely filed.

Further, M.P.E.P. § 711.03(c)(I)(B) states:

[A]pplicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been abandoned for failure to reply to a first Office Action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then holding of abandonment should be withdrawn upon the filing of a petition to withdraw holding of abandonment.

Enclosed, as Exhibit 3, is a copy of the return postcard listing the Request for Continued Examination, Reply to Final Office Action, Petition for Extension of Time, and two checks in the amounts of \$405.00 for the fee required by 37 C.F.R. § 1.17(e) for the Request for Continued Examination, and \$555.00 for the fee required by 37 C.F.R. § 1.17(a) for the Petition for Extension of Time. This postcard was included with Applicants' April 29, 2009 Request for Continued Examination. The return postcard bears the U.S.P.T.O. stamp indicating receipt of the items listed on the postcard by the U.S.P.T.O. on May 4, 2009. Further, the Request for Continued Examination, Reply to Final Office Action, and Petition for Extension of Time were filed on April 29, 2009 in accordance with the Certificate of Mailing procedure under 37 C.F.R. § 1.8 and thus should be considered timely filed.

In accordance with M.P.E.P. § 503, the postcard clearly identified and itemized

the items for which a receipt was requested. As such, Applicants submit that this postcard receipt provides *prima facie* evidence that the Request for Continued Examination, Reply to the October 29, 2008 Office Action, and Petition for Extension of Time were timely filed.

Finally, enclosed is a courtesy copy of Applicants' April 29, 2009 Request for Continued Examination, Reply to Final Office Action, and Petition for Extension of Time.

For all the above reasons, Applicants submit that the Request for Continued Examination, Reply to Final Office Action, and Petition for Extension of Time were timely filed and request that the Notice of Abandonment be withdrawn.

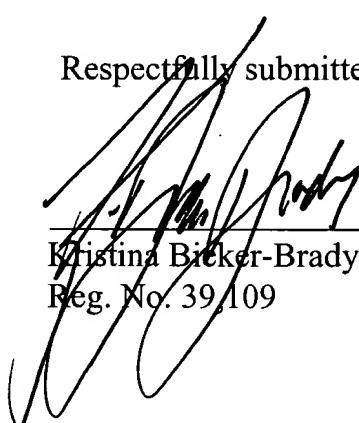
This Petition is being filed within two months of the notification date of the Notice of Abandonment.

If there are any charges or any credits, please apply them to Deposit Account No. 03-2095.

Date:

  
May 11, 2009

Respectfully submitted,

  
Kristina Bicker-Brady, Ph.D.  
Reg. No. 39,109

Clark & Elbing LLP  
101 Federal Street  
Boston, MA 02110  
Telephone: 617-428-0200  
Facsimile: 617-428-7045

# EXHIBIT 1



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09/489,606 Substance for obtaining highly effective tumor medications as well as a process					
Document Type	Applicant/Attorney/Assignee	Application Number	Image File	Foreign Attorney/Agent	Supplemental Assignments
Collection of all Applications by Inventor/Attorney/Assignee	Download	09/489,606	Image File	Foreign Attorney/Agent	Supplemental Assignments

This application is officially maintained in electronic form. To View: Click the desired Document Description. To Download and Print: Check the desired document(s) and click PDF.

**Available Documents**

Mail Room Date	Document Code	Document Description	Document Category	Page Count	PDF
05-05-2009	ABN	Abandonment	PROSECUTION	2	<input type="checkbox"/>
05-05-2009	N570	Communication - Re: Power of Attorney (PTO-308)	PROSECUTION	1	<input type="checkbox"/>
05-05-2009	N570	Communication - Re: Power of Attorney (PTO-308)	PROSECUTION	1	<input type="checkbox"/>
05-05-2009	OA.EMAIL	Email Notification	PROSECUTION	1	<input type="checkbox"/>
05-04-2009	RCEX	Request for Continued Examination (RCE)	PROSECUTION	2	<input type="checkbox"/>
05-04-2009	XT/	Extension of Time	PROSECUTION	2	<input type="checkbox"/>
05-04-2009	A.NE	Amendment After Final	PROSECUTION	1	<input type="checkbox"/>
05-04-2009	CLM	Claims	PROSECUTION	5	<input type="checkbox"/>
05-04-2009	REM	Applicant Arguments/Remarks Made in an Amendment	PROSECUTION	4	<input type="checkbox"/>
04-21-2009	PA..	Power of Attorney	PROSECUTION	25	<input type="checkbox"/>
10-29-2008	CTFR	Final Rejection	PROSECUTION	6	<input type="checkbox"/>
10-29-2008	CTFR	Final Rejection	PROSECUTION	1	<input type="checkbox"/>
10-29-2008	SRFW	Search Information including classification, databases and other search related notes	PROSECUTION	1	<input type="checkbox"/>
10-29-2008	FWCLM	Index of Claims	PROSECUTION	2	<input type="checkbox"/>
08-19-2008	WFEE	Fee Worksheet (PTO-875)	PROSECUTION	2	<input type="checkbox"/>
08-19-2008	N417	EFS Acknowledgment Receipt	PROSECUTION	2	<input type="checkbox"/>
08-19-2008	WFEE	Fee Worksheet (PTO-875)	PROSECUTION	1	<input type="checkbox"/>
08-19-2008	A...	Amendment/Req. Reconsideration-After Non-Final Reject	PROSECUTION	1	<input type="checkbox"/>
08-19-2008	CLM	Claims	PROSECUTION	2	<input type="checkbox"/>
08-19-2008	REM	Applicant Arguments/Remarks Made in an Amendment	PROSECUTION	3	<input type="checkbox"/>
08-18-2008	N570	Communication - Re: Power of Attorney (PTO-308)	PROSECUTION	1	<input type="checkbox"/>
08-18-2008	N570	Communication - Re: Power of Attorney (PTO-308)	PROSECUTION	1	<input type="checkbox"/>
08-04-2008	N417	EFS Acknowledgment Receipt	PROSECUTION	2	<input type="checkbox"/>
08-04-2008	PA..	Power of Attorney	PROSECUTION	1	<input type="checkbox"/>
08-04-2008	R3.73B	Assignee showing of ownership per 37 CFR 3.73 (b).	PROSECUTION	7	<input type="checkbox"/>
02-22-2008	CTNF	Non-Final Rejection	PROSECUTION	6	<input type="checkbox"/>
02-22-2008	FWCLM	Index of Claims	PROSECUTION	2	<input type="checkbox"/>
02-22-2008	SRFW	Search Information including classification, databases and other search related notes	PROSECUTION	1	<input type="checkbox"/>
02-22-2008	OA.EMAIL	Email Notification	PROSECUTION	1	<input type="checkbox"/>
12-03-2007	WFEE	Fee Worksheet (PTO-875)	PROSECUTION	1	<input type="checkbox"/>
12-03-2007	WFEE	Fee Worksheet (PTO-875)	PROSECUTION	1	<input type="checkbox"/>
11-01-2007	RCEX	Request for Continued Examination (RCE)	PROSECUTION	2	<input type="checkbox"/>
11-01-2007	XT/	Extension of Time	PROSECUTION	2	<input type="checkbox"/>
11-01-2007	AMSB	Amendment Submitted/Entered with Filing of CPA/RCE	PROSECUTION	1	<input type="checkbox"/>
11-01-2007	REM	Applicant Arguments/Remarks Made in an Amendment	PROSECUTION	8	<input type="checkbox"/>
11-01-2007	AF/D	Rule 130, 131 or 132 Affidavits	PROSECUTION	2	<input type="checkbox"/>
07-25-2007	CTFR	Final Rejection	PROSECUTION	7	<input type="checkbox"/>
07-25-2007	FWCLM	Index of Claims	PROSECUTION	1	<input type="checkbox"/>
07-25-2007	SRFW	Search Information including classification, databases and other search related notes	PROSECUTION	1	<input type="checkbox"/>
04-30-2007	A...	Amendment/Req. Reconsideration-After Non-Final Reject	PROSECUTION	1	<input type="checkbox"/>
04-30-2007	REM	Applicant Arguments/Remarks Made in an Amendment	PROSECUTION	7	<input type="checkbox"/>
04-30-2007	WFEE	Fee Worksheet (PTO-875)	PROSECUTION	2	<input type="checkbox"/>
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01-29-2007	FWCLM	Index of Claims	PROSECUTION	1	<input type="checkbox"/>
01-29-2007	SRFW	Search Information including classification,	PROSECUTION	1	<input type="checkbox"/>

		<u>databases and other search related notes</u>		
01-18-2007	SRNT	<u>Examiner's search strategy and results</u>	PROSECUTION	1 <input type="checkbox"/>
01-17-2007	SRNT	<u>Examiner's search strategy and results</u>	PROSECUTION	74 <input type="checkbox"/>
10-16-2006	A...	<u>Amendment/Req. Reconsideration-After Non-Final Reject</u>	PROSECUTION	1 <input type="checkbox"/>
10-16-2006	CLM	<u>Claims</u>	PROSECUTION	4 <input type="checkbox"/>
10-16-2006	REM	<u>Applicant Arguments/Remarks Made in an Amendment</u>	PROSECUTION	10 <input type="checkbox"/>
10-16-2006	XT/	<u>Extension of Time</u>	PROSECUTION	2 <input type="checkbox"/>
10-16-2006	WFEE	<u>Fee Worksheet (PTO-875)</u>	PROSECUTION	1 <input type="checkbox"/>
09-21-2006	EXIN	<u>Examiner Interview Summary Record (PTOL - 413)</u>	PROSECUTION	3 <input type="checkbox"/>
04-11-2006	CTNF	<u>Non-Final Rejection</u>	PROSECUTION	8 <input type="checkbox"/>
04-11-2006	1449	<u>List of References cited by applicant and considered by examiner</u>	PRIOR ART	2 <input type="checkbox"/>
04-11-2006	892	<u>List of references cited by examiner</u>	PRIOR ART	1 <input type="checkbox"/>
04-11-2006	NPL	<u>NPL Documents</u>	PRIOR ART	7 <input type="checkbox"/>
04-11-2006	SRFW	<u>Search information including classification, databases and other search related notes</u>	PROSECUTION	1 <input type="checkbox"/>
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01-10-2006	WFEE	<u>Fee Worksheet (PTO-875)</u>	PROSECUTION	1 <input type="checkbox"/>
12-07-2005	AMSB	<u>Amendment Submitted/Entered with Filing of CPA/RCE</u>	PROSECUTION	1 <input type="checkbox"/>
12-07-2005	CLM	<u>Claims</u>	PROSECUTION	4 <input type="checkbox"/>
12-07-2005	REM	<u>Applicant Arguments/Remarks Made in an Amendment</u>	PROSECUTION	25 <input type="checkbox"/>
12-07-2005	IDS	<u>Information Disclosure Statement (IDS) Filed (SB/08)</u>	PROSECUTION	2 <input type="checkbox"/>
12-07-2005	RCEX	<u>Request for Continued Examination (RCE)</u>	PROSECUTION	2 <input type="checkbox"/>
12-07-2005	XT/	<u>Extension of Time</u>	PROSECUTION	2 <input type="checkbox"/>
11-04-2005	CTAV	<u>Advisory Action (PTOL-303)</u>	PROSECUTION	3 <input type="checkbox"/>
11-04-2005	EXIN	<u>Examiner Interview Summary Record (PTOL - 413)</u>	PROSECUTION	2 <input type="checkbox"/>
11-04-2005	ANE.I	<u>Amendment After Final or under 37CFR 1.312, initiated by the examiner.</u>	PROSECUTION	2 <input type="checkbox"/>
07-01-2005	A.NE	<u>Amendment After Final</u>	PROSECUTION	1 <input type="checkbox"/>
07-01-2005	CLM	<u>Claims</u>	PROSECUTION	4 <input type="checkbox"/>
07-01-2005	REM	<u>Applicant Arguments/Remarks Made in an Amendment</u>	PROSECUTION	1 <input type="checkbox"/>
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07-01-2005	LET.	<u>Miscellaneous Incoming Letter</u>	PROSECUTION	1 <input type="checkbox"/>
07-01-2005	WFEE	<u>Fee Worksheet (PTO-875)</u>	PROSECUTION	1 <input type="checkbox"/>
06-16-2005	WFEE	<u>Fee Worksheet (PTO-875)</u>	PROSECUTION	1 <input type="checkbox"/>
06-06-2005	SA..	<u>Supplemental Response or Supplemental Amendment</u>	PROSECUTION	2 <input type="checkbox"/>
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03-18-2005	WFEE	<u>Fee Worksheet (PTO-875)</u>	PROSECUTION	2 <input type="checkbox"/>
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11-18-2004	CTNF	<u>Non-Final Rejection</u>	PROSECUTION	9 <input type="checkbox"/>
11-18-2004	1449	<u>List of References cited by applicant and considered by examiner</u>	PRIOR ART	1 <input type="checkbox"/>
11-18-2004	892	<u>List of references cited by examiner</u>	PRIOR ART	1 <input type="checkbox"/>
11-18-2004	NPL	<u>NPL Documents</u>	PRIOR ART	10 <input type="checkbox"/>
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11-18-2004	SRFW	<u>Search information including classification, databases and other search related notes</u>	PROSECUTION	1 <input type="checkbox"/>
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08-30-2004	NPL	<u>NPL Documents</u>	PRIOR ART	6	<input type="checkbox"/>
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08-30-2004	WCLM	<u>Claims Worksheet (PTO-2022)</u>	PROSECUTION	1	<input type="checkbox"/>
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01-26-2004	NPL	<u>NPL Documents</u>	PRIOR ART	9	<input type="checkbox"/>
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01-26-2004	NPL	<u>NPL Documents</u>	PRIOR ART	5	<input type="checkbox"/>
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01-26-2004	NPL	<u>NPL Documents</u>	PRIOR ART	7	<input type="checkbox"/>
01-26-2004	NPL	<u>NPL Documents</u>	PRIOR ART	7	<input type="checkbox"/>
12-22-2003	XT/	<u>Extension of Time</u>	PROSECUTION	1	<input type="checkbox"/>
12-09-2003	A...	<u>Amendment/Req. Reconsideration-After Non-Final Reject</u>	PROSECUTION	2	<input type="checkbox"/>
12-09-2003	CLM	<u>Claims</u>	PROSECUTION	2	<input type="checkbox"/>
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12-09-2003	XT/	<u>Extension of Time</u>	PROSECUTION	1	<input type="checkbox"/>
12-04-2003	EXIN	<u>Examiner Interview Summary Record (PTOL - 413)</u>	PROSECUTION	3	<input type="checkbox"/>
12-04-2003	EXIN	<u>Examiner Interview Summary Record (PTOL - 413)</u>	PROSECUTION	3	<input type="checkbox"/>
08-26-2003	CTNF	<u>Non-Final Rejection</u>	PROSECUTION	9	<input type="checkbox"/>
08-26-2003	892	<u>List of references cited by examiner</u>	PRIOR ART	1	<input type="checkbox"/>
06-05-2003	A...	<u>Amendment/Req. Reconsideration-After Non-Final Reject</u>	PROSECUTION	1	<input type="checkbox"/>
06-05-2003	CLM	<u>Claims</u>	PROSECUTION	2	<input type="checkbox"/>
06-05-2003	REM	<u>Applicant Arguments/Remarks Made in an Amendment</u>	PROSECUTION	6	<input type="checkbox"/>
06-05-2003	LET.	<u>Miscellaneous Incoming Letter</u>	PROSECUTION	2	<input type="checkbox"/>
06-05-2003	XT/	<u>Extension of Time</u>	PROSECUTION	1	<input type="checkbox"/>
05-27-2003	LET.	<u>Miscellaneous Incoming Letter</u>	PROSECUTION	2	<input type="checkbox"/>
03-06-2003	CTMS	<u>Miscellaneous Action with SSP</u>	PROSECUTION	2	<input type="checkbox"/>
03-03-2003	EXIN	<u>Examiner Interview Summary Record (PTOL - 413)</u>	PROSECUTION	3	<input type="checkbox"/>
02-28-2003	PA..	<u>Power of Attorney</u>	PROSECUTION	5	<input type="checkbox"/>
02-05-2003	A.NE	<u>Amendment After Final</u>	PROSECUTION	1	<input type="checkbox"/>
02-05-2003	CLM	<u>Claims</u>	PROSECUTION	1	<input type="checkbox"/>
02-05-2003	REM	<u>Applicant Arguments/Remarks Made in an Amendment</u>	PROSECUTION	6	<input type="checkbox"/>
02-05-2003	ANE.I	<u>Amendment After Final or under 37CFR 1.312, Initiated by the examiner.</u>	PROSECUTION	1	<input type="checkbox"/>
02-03-2003	N/AP	<u>Notice of Appeal Filed</u>	PROSECUTION	1	<input type="checkbox"/>
02-03-2003	XT/	<u>Extension of Time</u>	PROSECUTION	1	<input type="checkbox"/>
11-21-2002	EXIN	<u>Examiner Interview Summary Record (PTOL - 413)</u>	PROSECUTION	2	<input type="checkbox"/>
08-27-2002	CTFR	<u>Final Rejection</u>	PROSECUTION	7	<input type="checkbox"/>
08-27-2002	1449	<u>List of References cited by applicant and considered by examiner</u>	PRIOR ART	2	<input type="checkbox"/>
06-17-2002	A...	<u>Amendment/Req. Reconsideration-After Non-Final Reject</u>	PROSECUTION	1	<input type="checkbox"/>
06-17-2002	REM	<u>Applicant Arguments/Remarks Made in an Amendment</u>	PROSECUTION	23	<input type="checkbox"/>
03-12-2002	CTNF	<u>Non-Final Rejection</u>	PROSECUTION	8	<input type="checkbox"/>
02-08-2002	A...	<u>Amendment/Req. Reconsideration-After Non-Final Reject</u>	PROSECUTION	1	<input type="checkbox"/>
02-08-2002	AF/D	<u>Rule 130, 131 or 132 Affidavits</u>	PROSECUTION	2	<input type="checkbox"/>
01-04-2002	IDS	<u>Information Disclosure Statement (IDS) Filed (SB/08)</u>	PROSECUTION	2	<input type="checkbox"/>
01-04-2002	NPL	<u>NPL Documents</u>	PRIOR ART	25	<input type="checkbox"/>
01-04-2002	NPL	<u>NPL Documents</u>	PRIOR ART	7	<input type="checkbox"/>
01-04-2002	NPL	<u>NPL Documents</u>	PRIOR ART	1	<input type="checkbox"/>
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01-04-2002	NPL	<u>NPL Documents</u>	PRIOR ART	1	<input type="checkbox"/>
12-26-2001	FRPR	<u>Certified Copy of Foreign Priority Application</u>	PROSECUTION	27	<input type="checkbox"/>
12-26-2001	FRPR	<u>Certified Copy of Foreign Priority Application</u>	PROSECUTION	77	<input type="checkbox"/>
12-26-2001	A...	<u>Amendment/Req. Reconsideration-After Non-Final Reject</u>	PROSECUTION	1	<input type="checkbox"/>
12-26-2001	CLM	<u>Claims</u>	PROSECUTION	3	<input type="checkbox"/>
12-26-2001	REM	<u>Applicant Arguments/Remarks Made in an Amendment</u>	PROSECUTION	8	<input type="checkbox"/>
12-26-2001	LET.	<u>Miscellaneous Incoming Letter</u>	PROSECUTION	1	<input type="checkbox"/>
12-26-2001	XT/	<u>Extension of Time</u>	PROSECUTION	1	<input type="checkbox"/>
07-03-2001	CTNF	<u>Non-Final Rejection</u>	PROSECUTION	10	<input type="checkbox"/>
07-03-2001	1449	<u>List of References cited by applicant and considered by examiner</u>	PRIOR ART	1	<input type="checkbox"/>
07-03-2001	892	<u>List of references cited by examiner</u>	PRIOR ART	1	<input type="checkbox"/>
07-03-2001	NFDR	<u>Notice of Formal Drawings Required</u>	PROSECUTION	2	<input type="checkbox"/>
07-03-2001	NPL	<u>NPL Documents</u>	PRIOR ART	22	<input type="checkbox"/>
06-30-2001	SRNT	<u>Examiner's search strategy and results</u>	PROSECUTION	1	<input type="checkbox"/>
06-08-2001	SRNT	<u>Examiner's search strategy and results</u>	PROSECUTION	1	<input type="checkbox"/>
02-21-2001	A...	<u>Amendment/Req. Reconsideration-After Non-Final Reject</u>	PROSECUTION	1	<input type="checkbox"/>
02-21-2001	REM	<u>Applicant Arguments/Remarks Made in an Amendment</u>	PROSECUTION	3	<input type="checkbox"/>
02-21-2001	XT/	<u>Extension of Time</u>	PROSECUTION	1	<input type="checkbox"/>
02-14-2001	C.AD	<u>Change of Address</u>	PROSECUTION	1	<input type="checkbox"/>
11-21-2000	CTRS	<u>Requirement for Restriction/Election</u>	PROSECUTION	5	<input type="checkbox"/>
10-17-2000	FOR	<u>Foreign Reference</u>	PRIOR ART	84	<input type="checkbox"/>
10-17-2000	IDS	<u>Information Disclosure Statement (IDS) Filed (SB/08)</u>	PROSECUTION	1	<input type="checkbox"/>
10-17-2000	NPL	<u>NPL Documents</u>	PRIOR ART	1	<input type="checkbox"/>
10-17-2000	NPL	<u>NPL Documents</u>	PRIOR ART	9	<input type="checkbox"/>
10-17-2000	NPL	<u>NPL Documents</u>	PRIOR ART	3	<input type="checkbox"/>
03-31-2000	DRW	<u>Drawings-only black and white line drawings</u>	PROSECUTION	16	<input type="checkbox"/>
03-31-2000	SPEC	<u>Specification</u>	PROSECUTION	37	<input type="checkbox"/>
03-31-2000	CLM	<u>Claims</u>	PROSECUTION	4	<input checked="" type="checkbox"/>
03-31-2000	ABST	<u>Abstract</u>	PROSECUTION	1	<input type="checkbox"/>
03-31-2000	OATH	<u>Oath or Declaration filed</u>	PROSECUTION	3	<input type="checkbox"/>
03-31-2000	A...	<u>Amendment/Req. Reconsideration-After Non-Final Reject</u>	PROSECUTION	1	<input checked="" type="checkbox"/>
03-31-2000	REM	<u>Applicant Arguments/Remarks Made in an Amendment</u>	PROSECUTION	1	<input type="checkbox"/>
03-31-2000	LET.	<u>Miscellaneous Incoming Letter</u>	PROSECUTION	2	<input type="checkbox"/>
02-03-2000	CTMS	<u>Miscellaneous Action with SSP</u>	PROSECUTION	1	<input type="checkbox"/>
12-22-1999	LET.	<u>Miscellaneous Incoming Letter</u>	PROSECUTION	54	<input type="checkbox"/>
12-22-1999	LET.	<u>Miscellaneous Incoming Letter</u>	PROSECUTION	63	<input type="checkbox"/>
12-22-1999	IIFW	<u>Issue Information including classification, examiner, name, claim, renumbering, etc.</u>	PROSECUTION	1	<input type="checkbox"/>
12-22-1999	SRFW	<u>Search information including classification, databases and other search related notes</u>	PROSECUTION	1	<input type="checkbox"/>
12-22-1999	FWCLM	<u>Index of Claims</u>	PROSECUTION	1	<input type="checkbox"/>
12-22-1999	TRNA	<u>Transmittal of New Application</u>	PROSECUTION	1	<input type="checkbox"/>
12-22-1999	DRW	<u>Drawings-only black and white line drawings</u>	PROSECUTION	16	<input type="checkbox"/>
12-22-1999	SPECNO	<u>Specification - Not in English</u>	PROSECUTION	37	<input type="checkbox"/>
12-22-1999	WFEE	<u>Fee Worksheet (PTO-875)</u>	PROSECUTION	1	<input type="checkbox"/>
12-22-1999	WFEE	<u>Fee Worksheet (PTO-875)</u>	PROSECUTION	1	<input type="checkbox"/>
12-22-1999	WCLM	<u>Claims Worksheet (PTO-2022)</u>	PROSECUTION	1	<input type="checkbox"/>

[Select All](#) [Clear All](#)[PDF](#)**If you need help:**

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## EXHIBIT 2

*1PN RCE*

PATENT  
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Certificate of Mailing: Date of Deposit: April 29, 2009

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Michael E. Connors

Printed name of person mailing correspondence

Signature of person mailing correspondence

### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Heinz Peter Vollmers et al.	Confirmation No.:	5150
Serial No.:	09/469,606	Art Unit:	1643
Filed:	December 22, 1999	Examiner:	Alana M. Harris
Customer No.:	21559		
Title:	SUBSTANCE FOR OBTAINING HIGHLY EFFECTIVE TUMOR MEDICATIONS AS WELL AS A PROCESS		

Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

### REQUEST FOR CONTINUED EXAMINATION UNDER 37 C.F.R. § 1.114

Applicants hereby request continued examination of the above-captioned application under 37 C.F.R. § 1.114. The application is a non-provisional application that was filed on or after June 8, 1995.

This request is being submitted after the mailing of a final Office Action. Enclosed is a reply to the final Office Action.

Enclosed is a check for \$405.00 in payment of the fee required by 37 C.F.R. § 1.17(e) for this Request for Continued Examination.

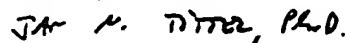
If there are any additional charges or any credits, please apply them to Deposit Account  
No. 03-2095.

Respectfully submitted,

Date: 29 April 2009

  
Kristina Bieker-Brady, Ph.D.

Reg. No. 39,109

  
Kristina Bieker-Brady, Ph.D.

  
Reg. No. 52,210

Clark & Elbing LLP  
101 Federal Street  
Boston, MA 02110  
Telephone: 617-428-0200  
Facsimile: 617-428-7045



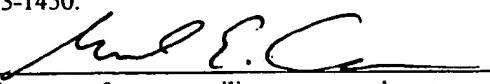
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ATTORNEY DOCKET NO. 50274/007002

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Michael E. Connors

Printed name of person mailing correspondence

  
Signature of person mailing correspondence

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Heinz Peter Vollmers et al.	Confirmation No.:	5150
Serial No.:	09/469,606	Art Unit:	1643
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Mail Stop RCE  
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P.O. Box 1450  
Alexandria, VA 22313-1450

PETITION FOR EXTENSION OF TIME

Pursuant to 37 C.F.R. § 1.136, Applicants hereby petition that the period for replying to the final Office Action that was mailed in connection with the above-captioned application on October 29, 2008 be extended for three (3) months, to and including April 29, 2009.

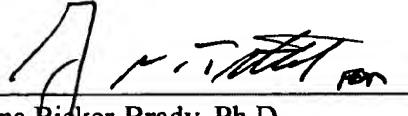
Enclosed is a check for \$555.00 for the fee required by 37 C.F.R. § 1.17(a).

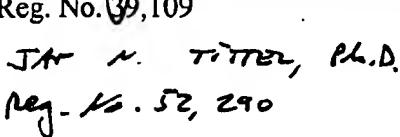
05/04/2009 CCHAU1 00000026 09469606  
02 FC:2253 555.00 QP

If there are any other charges or any credits, please apply them to Deposit Account No.  
03-2095.

Respectfully submitted,

Date: 29 April 2009

  
Kristina Bicker-Brady, Ph.D.  
Reg. No. 39,109

  
Kristina Bicker-Brady, Ph.D.  
Reg. No. 39,109

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Facsimile: 617-428-7045



PATENT  
ATTORNEY DOCKET NO. 50274/007002

Certificate of Mailing: Date of Deposit: April 29, 2009

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Michael E. Connors

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Signature of person mailing correspondence

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

REPLY TO FINAL OFFICE ACTION

In reply to the final Office Action that was mailed in connection with the above-captioned patent application on October 29, 2008, and in connection with the concurrently filed Request for Continued Examination, Applicants submit the following Amendments and Remarks.

Kindly amend the application as follows.

AMENDMENTS TO THE CLAIMS:

This listing of the claims will replace, without prejudice, all prior versions and listings of claims in the application.

Claim 1 (Currently Amended): ~~An isolated A purified~~ glycoprotein comprising the human amino acid primary structure of CD55 and a tumor-specific N-linked glycostructure, wherein said glycoprotein ~~is isolated from a membrane preparation of gastric adenocarcinoma cells by chromatographic processes and~~ has an apparent molecular weight of about 82 kD in sodium dodecyl sulfate polyacrylamide gel electrophoresis and is a glycoprotein present on adenocarcinoma cell line 23132 (DSMZ Accession No. DSM ACC 201), but not on a normal cell.

Claims 2-3 (Cancelled).

Claim 4 (Previously Presented): A process for obtaining a glycoprotein comprising the human amino acid primary structure of CD55 and a tumor-specific N-linked glycostructure, the process comprising producing a membrane preparation from cells of the human adenocarcinoma cell line 23132, and obtaining the glycoprotein therefrom by size-exclusion chromatography, wherein the glycoprotein has an apparent molecular weight of about 82 kD in sodium dodecyl sulfate polyacrylamide gel electrophoresis, and is a glycoprotein present on adenocarcinoma cell line 23132 (DSMZ Accession No. DSM ACC 201), but not on a normal cell.

Claims 5-41 (Cancelled).

Claim 42 (Previously Presented): A process for obtaining a glycoprotein comprising the human amino acid primary structure of CD55 and a tumor-specific N-linked glycostructure, the process comprising producing a membrane preparation from cells of the human adenocarcinoma cell line 23132, and obtaining the glycoprotein therefrom by anion-exchange chromatography, wherein the glycoprotein has an apparent molecular weight of about 82 kD in sodium dodecyl sulfate polyacrylamide gel electrophoresis, and is a glycoprotein present on adenocarcinoma cell line 23132 (DSMZ Accession No. DSM ACC 201), but not on a normal cell.

Claim 43 (Currently Amended): The isolated purified glycoprotein of claim 1, wherein said glycoprotein, if present on a cell and bound by an antibody that is specific for said glycostructure, results in apoptosis of said cell.

Claim 44 (Cancelled).

Claim 45 (Currently Amended): The isolated purified glycoprotein of claim 43, wherein binding of said antibody to said glycostructure results in cleavage of cytokeratin 18 in said cell.

Claim 46 (Currently Amended): The isolated purified glycoprotein of claim 43, wherein binding of said antibody to said glycostructure results in increased c-myc expression in said cell.

Claim 47 (Currently Amended): The isolated purified glycoprotein of claim 43, wherein binding of said antibody to said glycostructure results in decreased topoisomerase II $\alpha$  expression in said cell.

Claim 48 (Currently Amended): The isolated purified glycoprotein of claim 43, wherein binding of said antibody to said glycostructure results in an increase in intracellular Ca<sup>2+</sup> concentration in said cell.

Claim 49 (Currently Amended): The isolated purified glycoprotein of claim 43, wherein binding of said antibody to said glycostructure does not induce cleavage of poly(ADP-ribose)-polymerase in said cell.

Claims 50-58 (Cancelled).

Claim 59 (Currently Amended): An isolated A purified glycoprotein comprising the human amino acid primary structure of CD55 and a tumor-specific glycostructure obtained by the process of claim 4.

Claim 60 (Currently Amended): An isolated A purified glycoprotein comprising the human amino acid primary structure of CD55 and a tumor-specific glycostructure obtained by the process of claim 42.

Claim 61 (New): A purified glycoprotein comprising a section of a glycosylated human CD55 protein expressed by adenocarcinoma cell line 23132 (DSMZ Accession No. DSM ACC 201), but not by a normal cell, wherein said glycosylated human CD55 protein has an apparent molecular weight of about 82 kD in sodium dodecyl sulfate polyacrylamide gel electrophoresis and wherein said section of said glycosylated human CD55 protein comprises a tumor-specific N-linked glycostructure.

Claim 62 (New): The purified glycoprotein of claim 61, wherein an antibody that specifically binds said tumor-specific N-linked glycostructure of said section, upon binding, induces apoptosis of a cell expressing said glycosylated human CD55 protein.

Claim 63 (New): The purified glycoprotein of claim 62, wherein binding of said antibody to said glycostructure results in cleavage of cytokeratin 18 in said cell.

Claim 64 (New): The purified glycoprotein of claim 62, wherein binding of said antibody to said glycostructure results in increased c-myc expression in said cell.

Claim 65 (New): The purified glycoprotein of claim 62, wherein binding of said antibody to said glycostructure results in decreased topoisomerase II $\alpha$  expression in said cell.

Claim 66 (New): The purified glycoprotein of claim 62, wherein binding of said antibody to said glycostructure results in an increase in intracellular Ca<sup>2+</sup> concentration in said cell.

**Claim 67 (New):** The purified glycoprotein of claim 62, wherein binding of said antibody to said glycostructure does not induce cleavage of poly(ADP-ribose)-polymerase in said cell.

## REMARKS

Prior to entry of the present amendment, claims 1, 4, 42, 43, 45-49, and 57-60 are pending. Claims 1, 4, 42, 43, 45-49, and 57-60 are rejected under 35 U.S.C. § 102. Applicants address each basis for rejection as follows:

### Claim Amendments

Claim 1 has been amended to recite a *purified* glycoprotein. Support for this amendment is found, for example, at pages 28 and 29 of the English language specification, in the section entitled “2.1 Purification of the SC-1-Receptor CD55.” In view the amendment to claim 1, claims 57 and 58 have been cancelled and claims 43, 45-49, and 59-60 have been amended.

In addition, new claims 61-67 have been added. These claims correspond to claims 50-56, which were cancelled in the last reply. New claims 61-67 find support, for example, at page 4, line 15, to page 5, line 18, of the English language specification.

No new matter has been added by the present amendment. Applicants reserve the right to pursue any cancelled subject matter in this or in a continuing application.

### Rejection under 35 U.S.C. § 102

Claims 1, 4, 42, 43, 45-49, and 57-60 are rejected under 35 U.S.C. § 102(b) as anticipated by Vollmers et al. (Cancer 76:550-558, 1995; hereafter “Vollmers”). Applicants respectfully disagree.

The Office states (page 3):

Applicants are reminded that the cell extract of Vollmers from stomach carcinoma cell line 23132 inherently contains the isolated 82 kD glycoprotein ... The fact

remains, inherently the 82 kD glycoprotein has been isolated from the cell extract. The starting material from which the claimed product is derived is the same, hence the rejection is maintained.

Applicants note that the claims, as amended, recite a *purified* glycoprotein. Vollmers fails to describe a purified glycoprotein having the features required by the claims, namely a glycoprotein that has an apparent molecular weight of about 82 kD in sodium dodecyl sulfate polyacrylamide gel electrophoresis. Moreover, the cell extract described by Vollmers does not inherently contain the *purified* glycoprotein encompassed by the claims. While adenocarcinoma cell line 23132 expresses the glycoprotein encompassed by the claims and the cell extract described in the “Western Blots” section at page 552 of Vollmers may contain the glycoprotein, nowhere does Vollmers describe the *purified* glycoprotein. In fact, Vollmers does not perform steps that, according to Applicants’ specification, are required to purify the 82 kD glycoprotein from 23132 cells.

At pages 28 and 29 of the specification, in the section entitled “2.1 Purification of the SC-1-Receptor CD55,” Applicants describe *purification* of the 82 kD protein isolated from the membrane fraction *using sequential size-exclusion and anion-exchange chromatography*. On this point, Applicants direct the Office’s attention to the Declaration of inventor Dr. Frank Hensel submitted with Applicants’ October 30, 2007 reply. Dr. Hensel, in paragraph 3, states:

Vollmers et al. does not describe an isolated glycoprotein including the human amino acid primary structure of CD55 and a tumor-specific N-linked glycostructure, where the glycoprotein has an apparent molecular weight of about 82 kD in sodium dodecyl sulfate polyacrylamide gel electrophoresis. Hensel et al., at page 5301, cites Vollmers et al. as describing a 50 kD protein in whole cell lysates bound by the SC-1 antibody. In Hensel et al., to detect the 82 kD protein, the stringency had to be altered and membrane preparations, not whole cell lysates, had to be used. The 82 kD protein was isolated from membrane fractions and purified by sequential size-exclusion and anion-exchange chromatography. These additional steps required to purify the 82 kD protein are not described in

Vollmers et al. (Emphasis added.)

As stated in the Hensel Declaration, the 82 kD protein was isolated from membrane fractions and purified by sequential size-exclusion and anion-exchange chromatography to obtain the purified 82 kD protein. As noted above, these required purification steps taught in Applicants' specification are neither described nor performed by Vollmers. Applicants submit that Vollmers clearly does not purify a glycoprotein having the features required by the pending claims. Vollmers does not even suggest that the 82 kD glycoprotein exists in a cell extract of 23132 cells, much less how to purify the glycoprotein. Hence, Vollmers cannot describe, either expressly or inherently, the purified glycoproteins encompassed by the present claims. Applicants submit that the claims, as amended, are free of the anticipation rejection over Vollmers. This basis for rejection should be withdrawn.

CONCLUSION

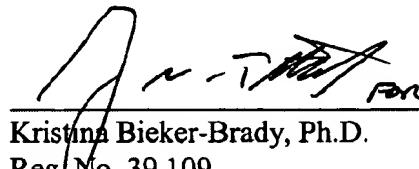
Applicants submit that the application is now in condition for allowance, and such action is hereby respectfully requested.

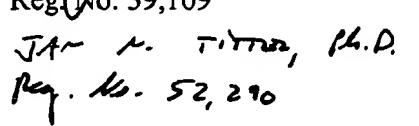
Enclosed is a Petition to extend the period for replying to the final Office Action for three (3) months, to and including April 29, 2009, and a check in payment of the required extension fee.

If there are any additional charges or any credits, please apply them to Deposit Account No. 03-2095.

Respectfully submitted,

Date: 29 April 2009

  
Kristina Bieker-Brady, Ph.D.  
Reg. No. 39,109

  
Reg. No. 52,290

Clark & Elbing LLP  
101 Federal Street  
Boston, MA 02110  
Telephone: 617-428-0200  
Facsimile: 617-428-7045

# EXHIBIT 3

## \*\*\*PROSECUTION\*\*\*

Attorney Docket Number: 50274/007002

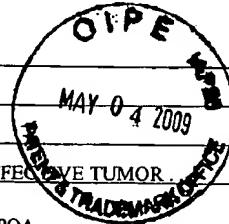
The U.S. PTO date stamp sets forth the date of receipt of:

Applicant/Patentee: Heinz Peter Vollmers et al.

Serial/Patent Number: 09/469,606

Filed/Issued: December 22, 1999

Title: SUBSTANCE FOR OBTAINING HIGHLY EFFECTIVE TUMOR



- |  |                   |   |               |
|--|-------------------|---|---------------|
| <input type="checkbox"/> Transmittal Letter  | Pages: _____      | <input type="checkbox"/> Declaration & POA        | Pages: _____  |
| <input type="checkbox"/> Notice to File Missing Parts                              | Pages: _____      | <input type="checkbox"/> Assignment & Cover Sheet | Pages: _____  |
| <input type="checkbox"/> Reply to Missing Parts                                    | Pages: _____      | <input type="checkbox"/> Change of Address        | Pages: _____  |
| <input checked="" type="checkbox"/> Reply to Office Action                         | Pages: <u>10</u>  | <input type="checkbox"/> Preliminary Amendment    | Pages: _____  |
| <input checked="" type="checkbox"/> Petition for Extension                         | Pages: <u>2</u>   | <input type="checkbox"/> IDS                      | Pages: _____  |
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| <input type="checkbox"/> Drawings Formal/Informal                                  | Pages: _____      | <input type="checkbox"/> Sequence Listing         | Pages: _____  |
| <input type="checkbox"/> M-Fee Payment   | Pages: _____      | <input type="checkbox"/> Sequence Statement       | Pages: _____  |
| <input type="checkbox"/> Issue Fee Transmittal Form                                | Pages: _____      | <input type="checkbox"/> Sequence Diskette        | Number: _____ |
| <input checked="" type="checkbox"/> Check  | \$: <u>555.00</u> | <input type="checkbox"/> Application Data Sheet   | Pages: _____  |
| <input checked="" type="checkbox"/> Other <u>Check for \$405.00</u>                |                   |   |               |
| <input checked="" type="checkbox"/> Other <u>Request for Continued Examination</u> |                   |   |               |
| <input type="checkbox"/> Other _____   |                   |   |               |

Atty/Secy: KBE/JNT/mec Matter Name: \_\_\_\_\_ Date: 04/29/2009



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/469,606	12/22/1999	HEINZ PETER VOLLMERS	50274/007002	5150
21559	7590	05/05/2009	EXAMINER	
CLARK & ELBING LLP 101 FEDERAL STREET BOSTON, MA 02110		HARRIS, ALANA M		
		ART UNIT		PAPER NUMBER
		1643		
		NOTIFICATION DATE		DELIVERY MODE
		05/05/2009		ELECTRONIC

# COPY

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

[patentadministrator@clarkelbing.com](mailto:patentadministrator@clarkelbing.com)

<b>Notice of Abandonment</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/469,606	<b>VOLLMERS ET AL.</b>	
	<b>Examiner</b>	<b>Art Unit</b>	

Alana M. Harris, Ph.D.

1643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1.  Applicant's failure to timely file a proper reply to the Office letter mailed on 29 October 2008.
  - (a)  A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b)  A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c)  A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d)  No reply has been received.
  
2.  Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a)  The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b)  The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c)  The issue fee and publication fee, if applicable, has not been received.
  
3.  Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a)  Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b)  No corrected drawings have been received.
  
4.  The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
  
5.  The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
  
6.  The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
  
7.  The reason(s) below:

/Alana M. Harris, Ph.D./  
Primary Examiner, Art Unit 1643

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

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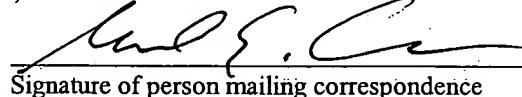
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ATTORNEY DOCKET NO. 50274/007002

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Michael E. Connors

Printed name of person mailing correspondence



Signature of person mailing correspondence

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Heinz Peter Vollmers et al.	Confirmation No.:	5150
Serial No.:	09/469,606	Art Unit:	1643
Filed:	December 22, 1999	Examiner:	Alana M. Harris
Customer No.:	21559		
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Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

### REQUEST FOR CONTINUED EXAMINATION UNDER 37 C.F.R. § 1.114

Applicants hereby request continued examination of the above-captioned application under 37 C.F.R. § 1.114. The application is a non-provisional application that was filed on or after June 8, 1995.

This request is being submitted after the mailing of a final Office Action. Enclosed is a reply to the final Office Action.

Enclosed is a check for \$405.00 in payment of the fee required by 37 C.F.R. § 1.17(e) for this Request for Continued Examination.

If there are any additional charges or any credits, please apply them to Deposit Account  
No. 03-2095.

Respectfully submitted,

Date: 29 April 2009

Clark & Elbing LLP  
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PATENT

ATTORNEY DOCKET NO. 50274/007002

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I hereby certify under 37 C.F.R. § 1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated above and is addressed to Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Michael E. Connors

Printed name of person mailing correspondence



Signature of person mailing correspondence

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Heinz Peter Vollmers et al.	Confirmation No.:	5150
Serial No.:	09/469,606	Art Unit:	1643
Filed:	December 22, 1999	Examiner:	Alana M. Harris
Customer No.:	21559		
Title:	SUBSTANCE FOR OBTAINING HIGHLY EFFECTIVE TUMOR MEDICATIONS AS WELL AS A PROCESS		

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## PETITION FOR EXTENSION OF TIME

Pursuant to 37 C.F.R. § 1.136, Applicants hereby petition that the period for replying to the final Office Action that was mailed in connection with the above-captioned application on October 29, 2008 be extended for three (3) months, to and including April 29, 2009.

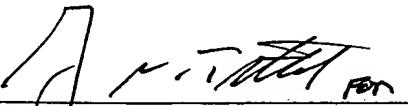
Enclosed is a check for \$555.00 for the fee required by 37 C.F.R. § 1.17(a).

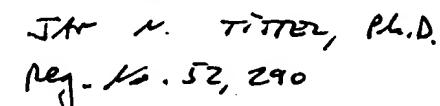
If there are any other charges or any credits, please apply them to Deposit Account No.

03-2095.

Respectfully submitted,

Date: 29 April 2009

  
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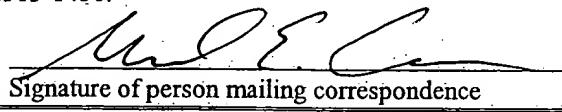
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## REPLY TO FINAL OFFICE ACTION

In reply to the final Office Action that was mailed in connection with the above-captioned patent application on October 29, 2008, and in connection with the concurrently filed Request for Continued Examination, Applicants submit the following Amendments and Remarks.

Kindly amend the application as follows.

AMENDMENTS TO THE CLAIMS:

This listing of the claims will replace, without prejudice, all prior versions and listings of claims in the application.

Claim 1 (Currently Amended): ~~An isolated A purified~~ glycoprotein comprising the human amino acid primary structure of CD55 and a tumor-specific N-linked glycostructure, wherein said glycoprotein ~~is isolated from a membrane preparation of gastric adenocarcinoma cells by chromatographic processes and~~ has an apparent molecular weight of about 82 kD in sodium dodecyl sulfate polyacrylamide gel electrophoresis and is a glycoprotein present on adenocarcinoma cell line 23132 (DSMZ Accession No. DSM ACC 201), but not on a normal cell.

Claims 2-3 (Cancelled).

Claim 4 (Previously Presented): A process for obtaining a glycoprotein comprising the human amino acid primary structure of CD55 and a tumor-specific N-linked glycostructure, the process comprising producing a membrane preparation from cells of the human adenocarcinoma cell line 23132, and obtaining the glycoprotein therefrom by size-exclusion chromatography, wherein the glycoprotein has an apparent molecular weight of about 82 kD in sodium dodecyl sulfate polyacrylamide gel electrophoresis, and is a glycoprotein present on adenocarcinoma cell line 23132 (DSMZ Accession No. DSM ACC 201), but not on a normal cell.

Claims 5-41 (Cancelled).

Claim 42 (Previously Presented): A process for obtaining a glycoprotein comprising the human amino acid primary structure of CD55 and a tumor-specific N-linked glycostructure, the process comprising producing a membrane preparation from cells of the human adenocarcinoma cell line 23132, and obtaining the glycoprotein therefrom by anion-exchange chromatography, wherein the glycoprotein has an apparent molecular weight of about 82 kD in sodium dodecyl sulfate polyacrylamide gel electrophoresis, and is a glycoprotein present on adenocarcinoma cell line 23132 (DSMZ Accession No. DSM ACC 201), but not on a normal cell.

Claim 43 (Currently Amended): The isolated purified glycoprotein of claim 1, wherein said glycoprotein, if present on a cell and bound by an antibody that is specific for said glycostructure, results in apoptosis of said cell.

Claim 44 (Cancelled).

Claim 45 (Currently Amended): The isolated purified glycoprotein of claim 43, wherein binding of said antibody to said glycostructure results in cleavage of cytokeratin 18 in said cell.

Claim 46 (Currently Amended): The isolated purified glycoprotein of claim 43, wherein binding of said antibody to said glycostructure results in increased c-myc expression in said cell.

Claim 47 (Currently Amended): The isolated purified glycoprotein of claim 43, wherein binding of said antibody to said glycostructure results in decreased topoisomerase II $\alpha$  expression in said cell.

Claim 48 (Currently Amended): The isolated purified glycoprotein of claim 43, wherein binding of said antibody to said glycostructure results in an increase in intracellular Ca<sup>2+</sup> concentration in said cell.

Claim 49 (Currently Amended): The isolated purified glycoprotein of claim 43, wherein binding of said antibody to said glycostructure does not induce cleavage of poly(ADP-ribose)-polymerase in said cell.

Claims 50-58 (Cancelled).

Claim 59 (Currently Amended): An isolated A purified glycoprotein comprising the human amino acid primary structure of CD55 and a tumor-specific glycostructure obtained by the process of claim 4.

Claim 60 (Currently Amended): An isolated A purified glycoprotein comprising the human amino acid primary structure of CD55 and a tumor-specific glycostructure obtained by the process of claim 42.

Claim 61 (New): A purified glycoprotein comprising a section of a glycosylated human CD55 protein expressed by adenocarcinoma cell line 23132 (DSMZ Accession No. DSM ACC 201), but not by a normal cell, wherein said glycosylated human CD55 protein has an apparent molecular weight of about 82 kD in sodium dodecyl sulfate polyacrylamide gel electrophoresis and wherein said section of said glycosylated human CD55 protein comprises a tumor-specific N-linked glycostructure.

Claim 62 (New): The purified glycoprotein of claim 61, wherein an antibody that specifically binds said tumor-specific N-linked glycostructure of said section, upon binding, induces apoptosis of a cell expressing said glycosylated human CD55 protein.

Claim 63 (New): The purified glycoprotein of claim 62, wherein binding of said antibody to said glycostructure results in cleavage of cytokeratin 18 in said cell.

Claim 64 (New): The purified glycoprotein of claim 62, wherein binding of said antibody to said glycostructure results in increased c-myc expression in said cell.

Claim 65 (New): The purified glycoprotein of claim 62, wherein binding of said antibody to said glycostructure results in decreased topoisomerase II $\alpha$  expression in said cell.

Claim 66 (New): The purified glycoprotein of claim 62, wherein binding of said antibody to said glycostructure results in an increase in intracellular Ca<sup>2+</sup> concentration in said cell.

Claim 67 (New): The purified glycoprotein of claim 62, wherein binding of said antibody to said glycostructure does not induce cleavage of poly(ADP-ribose)-polymerase in said cell.

## REMARKS

Prior to entry of the present amendment, claims 1, 4, 42, 43, 45-49, and 57-60 are pending. Claims 1, 4, 42, 43, 45-49, and 57-60 are rejected under 35 U.S.C. § 102. Applicants address each basis for rejection as follows:

### Claim Amendments

Claim 1 has been amended to recite a *purified* glycoprotein. Support for this amendment is found, for example, at pages 28 and 29 of the English language specification, in the section entitled “2.1 Purification of the SC-1-Receptor CD55.” In view the amendment to claim 1, claims 57 and 58 have been cancelled and claims 43, 45-49, and 59-60 have been amended.

In addition, new claims 61-67 have been added. These claims correspond to claims 50-56, which were cancelled in the last reply. New claims 61-67 find support, for example, at page 4, line 15, to page 5, line 18, of the English language specification.

No new matter has been added by the present amendment. Applicants reserve the right to pursue any cancelled subject matter in this or in a continuing application.

### Rejection under 35 U.S.C. § 102

Claims 1, 4, 42, 43, 45-49, and 57-60 are rejected under 35 U.S.C. § 102(b) as anticipated by Vollmers et al. (Cancer 76:550-558, 1995; hereafter “Vollmers”). Applicants respectfully disagree.

The Office states (page 3):

Applicants are reminded that the cell extract of Vollmers from stomach carcinoma cell line 23132 inherently contains the isolated 82 kD glycoprotein ... The fact

remains, inherently the 82 kD glycoprotein has been isolated from the cell extract. The starting material from which the claimed product is derived is the same, hence the rejection is maintained.

Applicants note that the claims, as amended, recite a *purified* glycoprotein. Vollmers fails to describe a purified glycoprotein having the features required by the claims, namely a glycoprotein that has an apparent molecular weight of about 82 kD in sodium dodecyl sulfate polyacrylamide gel electrophoresis. Moreover, the cell extract described by Vollmers does not inherently contain the *purified* glycoprotein encompassed by the claims. While adenocarcinoma cell line 23132 expresses the glycoprotein encompassed by the claims and the cell extract described in the "Western Blots" section at page 552 of Vollmers may contain the glycoprotein, nowhere does Vollmers describe the *purified* glycoprotein. In fact, Vollmers does not perform steps that, according to Applicants' specification, are required to purify the 82 kD glycoprotein from 23132 cells.

At pages 28 and 29 of the specification, in the section entitled "2.1 Purification of the SC-1-Receptor CD55," Applicants describe *purification* of the 82 kD protein isolated from the membrane fraction *using sequential size-exclusion and anion-exchange chromatography*. On this point, Applicants direct the Office's attention to the Declaration of inventor Dr. Frank Hensel submitted with Applicants' October 30, 2007 reply. Dr. Hensel, in paragraph 3, states:

Vollmers et al. does not describe an isolated glycoprotein including the human amino acid primary structure of CD55 and a tumor-specific N-linked glycostructure, where the glycoprotein has an apparent molecular weight of about 82 kD in sodium dodecyl sulfate polyacrylamide gel electrophoresis. Hensel et al., at page 5301, cites Vollmers et al. as describing a 50 kD protein in whole cell lysates bound by the SC-1 antibody. In Hensel et al., to detect the 82 kD protein, the stringency had to be altered and membrane preparations, not whole cell lysates, had to be used. The 82 kD protein was isolated from membrane fractions and purified by sequential size-exclusion and anion-exchange chromatography. These additional steps required to purify the 82 kD protein are not described in

Vollmers et al. (Emphasis added.)

As stated in the Hensel Declaration, the 82 kD protein was isolated from membrane fractions and purified by sequential size-exclusion and anion-exchange chromatography to obtain the purified 82 kD protein. As noted above, these required purification steps taught in Applicants' specification are neither described nor performed by Vollmers. Applicants submit that Vollmers clearly does not purify a glycoprotein having the features required by the pending claims. Vollmers does not even suggest that the 82 kD glycoprotein exists in a cell extract of 23132 cells, much less how to purify the glycoprotein. Hence, Vollmers cannot describe, either expressly or inherently, the purified glycoproteins encompassed by the present claims. Applicants submit that the claims, as amended, are free of the anticipation rejection over Vollmers. This basis for rejection should be withdrawn.

CONCLUSION

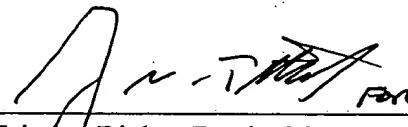
Applicants submit that the application is now in condition for allowance, and such action is hereby respectfully requested.

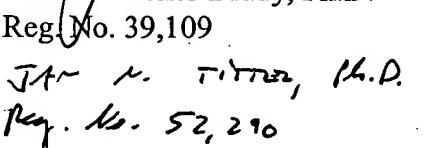
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